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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

April 9, 2018

Dear Secretary Azar:

I write to understand the Department of Health and Human Services' (HHS) decision to hire CVS Caremark Vice President Daniel Best to lead HHS's efforts to address high prescription pharmaceutical drug costs as Senior Advisor to the Secretary for Drug Pricing Reform. Mr. Best has a long history of work for the pharmacy and pharmaceutical industry: prior to his six years working for CVS Caremark, Mr. Best was Director of Business Development for Pfizer for four years. Given Mr. Best's career working for the pharmaceutical and pharmacy industry, the decision to hire him poses significant potential for conflicts of interest, placing him in a position to make decisions that may pit the income of his former employers against the interests of patients in reducing prescription drug prices.

When discussing the appointment of Mr. Best, you said "[u]nder President Trump, HHS has an historic opportunity to confront a number of America's pressing health challenges, including the high price of prescription drugs and our country's opioid crisis." You also stated "Daniel Best recognizes what President Trump and I, and every American know: prescription drug prices are too high. He has the deep experience necessary to design and enact reforms to lower the price of medicines that help Americans live healthier and longer lives."¹ Yet, Pfizer, which is one of the largest drug companies in world, has a long history of raising the price of prescription drugs.

¹ Department of Health and Human Services. (2018, March 29). Secretary Azar Announces Appointments to Advance Department Priorities. Retrieved from <https://www.hhs.gov/about/news/2018/03/29/secretary-azar-announces-appointments-advance-department-priorities.html>.

Last year, on average, Pfizer raised the cost of 91 drugs by 20%.² In January 2016, Pfizer raised the price of more than 100 of its medicines.³ Since 2012, Pfizer raised the cost of some of its older drugs every 6 months.⁴ During the time Mr. Best worked for Pfizer, the company aggressively fought to keep patients on its more expensive brand of cholesterol medication while a less-expensive generic equivalent was available.⁵ Mr. Best's tenure at Pfizer raises serious questions about his ability to create fair and consumer-friendly policies at HHS and his ability to rein in rising drug costs.

While Pharmacy Benefit Managers like CVS Caremark serve to negotiate savings for consumers, they are a for-profit industry with a record of making a profit off fees paid by insurers and employers, and keeping a cut of the rebates they negotiate.⁶ The lack of transparency associated with their business model, as well as the high level of market concentration in the industry, casts doubt on the efficacy of their role in cost control. In fact, there is evidence to suggest CVS Caremark crossed legal and ethical lines during Mr. Best's time at CVS Caremark.

For example, in February 2018, HIV patients filed suit with CVS Caremark, alleging the benefit plan abruptly stopped covering their prescription costs at certain pharmacies, pushing them back to CVS locations.⁷ These allegations, if true, would reveal disturbing, unethical behavior on the part of CVS Caremark that undermines basic consumer protections.

In order to understand the appointment of Mr. Best and the role he will play in reducing drug prices, please provide me with the following information on the decision to hire Mr. Best as Senior Advisor to the Secretary for Drug Pricing Reform:

1. What individuals or offices within HHS were responsible for the decision to hire Mr. Best? What other agencies were involved? Who in the White House was involved in this decision? Did these individuals or offices consider Mr. Best's possible conflicts of interest when making the decision to hire him? Please include all communication with other federal agencies or the White House related to this decision, as well as a complete

² Pfizer hikes U.S. prices of 91 drugs by average 20 percent in 2017: Financial Times. (2017, June 2). *Reuters*. Retrieved from <https://www.reuters.com/article/us-pfizer-pricing/pfizer-hikes-u-s-prices-of-91-drugs-by-average-20-percent-in-2017-financial-times-idUSKBN18T2QF>

³ Beasley, Deena. (2016, January 8). Pfizer hikes prices for over 100 drugs on January 1. *Reuters*. Retrieved from <https://www.reuters.com/article/us-pfizer-prices/pfizer-hikes-u-s-prices-for-over-100-drugs-on-january-1-idUSKBN0UM2FU20160109>

⁴ Beasley, Deena. (2016, January 8). Pfizer hikes prices for over 100 drugs on January 1. *Reuters*. Retrieved from <https://www.reuters.com/article/us-pfizer-prices/pfizer-hikes-u-s-prices-for-over-100-drugs-on-january-1-idUSKBN0UM2FU20160109>

⁵ Berenson, Alex. (2005, October 15). Lipitor or Generic? Billion-Dollar Battle Looms. *The New York Times*. Retrieved from <https://www.nytimes.com/2005/10/15/business/lipitor-or-generic-billiondollar-battle-looms.html?mtrref=www.google.com>

⁶ Wapner, Jessica. (2017, March 17). Understanding the hidden villain of Big Pharma: Pharmacy Benefit Managers. *Newsweek*. Retrieved from: <http://www.newsweek.com/big-pharma-villain-pbm-569980>

⁷ John Doe One, John Doe Two, John Doe Three, and John Doe Four vs. CVS Health Corporation; CVS Pharmacy, Inc.; Caremark RX, L.L.C.; Caremark L.L.C.; National Railroad Passenger Corporation (Northern District of California February 16, 2018). (Dist. file).

list of individuals in the White House or in other federal agencies who were involved in any capacity in this hiring decision.

2. Which outside organizations or individuals were consulted prior to Mr. Best's hiring? Specifically, was PhRMA, any PhRMA member companies, or other pharmaceutical companies consulted in this decision? Were any Pharmacy Benefit Managers or pharmacy firms? Were any consumer groups or organizations representing patients or seniors consulted in this decision? Please include all communication with outside organizations or individuals related to this decision, as well as a complete list of outside organizations or individuals who were involved in any capacity in this hiring decision.
3. During his time in the private sector, or at any time, has Mr. Best ever lobbied HHS or the U.S. Congress or advocated for any policies related to prescription drug pricing? If so, please provide a complete list of all lobbying activities.
4. What measures will Mr. Best take to ensure his conflicts of interest do not affect his charge to help lower prescription drug prices? Specifically, will Mr. Best recuse himself from all decisions that affect Pfizer or CVS Caremark?
5. Has Mr. Best divested from all CVS Caremark, Pfizer, and all other pharmaceutical and pharmacy-related investments or interests? If not, when does he intend to do so? Will Mr. Best receive a pension from CVS Caremark or Pfizer? Please also provide a copy of Mr. Best's ethics agreement.
6. Currently, Pharmacy Benefit Managers, drug companies, and insurers negotiate rebates under Medicare Part D. However, these rebates do not go directly to consumers. In fact, there is evidence to suggest the current rebate structure could raise costs for patients and Medicare.⁸ The Centers for Medicare & Medicaid Services recently issued a proposal for comment which would return a portion of drug rebates directly to consumers.⁹ This proposal will directly affect CVS Caremark and Pfizer, both of Mr. Best's former employers. Will Mr. Best recuse himself from work on this proposed rule? If not, how will Mr. Best ensure impartiality to ensure this proposal—should it move forward—provides the greatest direct benefit to consumers rather than his former employers?
7. Please detail how Mr. Best plans to meet the Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive Branch, specifically subpart D, E, and

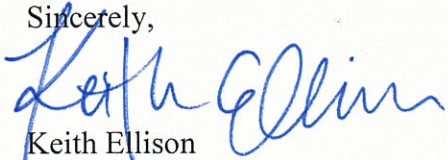
⁸ Dusetzina SB, Conti RM, Yu NL, Bach PB. Association of Prescription Drug Price Rebates in Medicare Part D With Patient Out-of-Pocket and Federal Spending. *JAMA Intern Med.* 2017;177(8):1185–1188. doi:10.1001/jamainternmed.2017.1885

⁹ Romeo, Mary. (2018, April 3). CMS leaves door open to passing on Part D rebates. Biocentury. Retrieved from <https://www.biocentury.com/bc-extra/politics-policy/2018-04-03/cms-leaves-door-open-passing-part-d-rebates>

G.¹⁰ Please detail all the scenarios in which Mr. Best plans to recuse himself. What policies or procedures are in place to ensure that if a conflict of interest arises, recusal will occur? Please provide documentation of these policies and procedures to our office.

I respectfully request answers to my questions by April 26, 2018. If you have any questions or concerns, please contact my staff, Abby Schanfield. She can be reached at Abby.Schanfield@mail.house.gov.

Sincerely,



Keith Ellison
Member of Congress

¹⁰U.S. Office of Government Ethics. (2017, January 1). Standards of Ethical Conduct for Employees of the Executive Branch. Retrieved from <https://www.oge.gov/Web/oge.nsf/Resources/Standards+of+Ethical+Conduct+for+Employees+of+the+Executive+Branch>